

REMARKS

Claims 9 through 14, 18, 19, 22, 68 through 94 and 101 through 113 are pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 101 through 103, 105 and 107 through 110 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kuffel (U.S. Pat. No. 5,759,004). This rejection is respectfully traversed.

The Examiner characterizes the Kuffel reference as including a retaining portion (14) with wing members (20) that have a warped planar outer surface that coextends with the outer planar surface of an associated one of the insertion portions. The Examiner also states that the warped planar outer surface is disposed on a same side of the longitudinal axis as the outer planar surface of an associated part of the insertion portion.

Applicant respectfully submits that the Examiner has mischaracterized the Kuffel reference and that it neither teaches or suggests the subject matter of Claim 101 of the present application. In this regard, Applicant notes that Claim 101 of the present application recites that each wing member has a warped planar outer surface and that the wing member terminates at a tip portion that engages a first member. In contrast, the element that is designated by reference numeral (20), i.e., the element that the Examiner characterizes as engaging the first member, is not warped.

As the Examiner knows, “anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). It is not enough, however, that the reference disclose all the claimed elements in isolation. Rather, as stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “*arranged as in the claim*”. *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984). Likewise, a *prima facie* case of obviousness requires that the combination of references teach or suggest all the claim limitations. *See, e.g., In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant submits that the Examiner has set forth a *prima facie* case of anticipation or obviousness as the Kuffel reference does not teach or suggest a warped wing member that engages a first member to thereby couple the resilient fastener to the first member. Rather, the Kuffel reference engages an end surface of a resilient retaining leg to a first member to couple the Kuffel pushmount to a first member. While the Kuffel discloses centering tabs (22), these abut rather than engage the first member. Applicant notes that the word “engage” means to interlock or cause to interlock.

In view of the above remarks, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of Claim 101 under 35 U.S.C. §102(b).

Applicant notes that Claims 102 through 113 depend from Claim 101 and as such, should be in condition for allowance for the reasons stated for Claim 101 above.

Additionally, Applicant submits that the Examiner has not provided any teaching or suggestion to combine the teeth of the '467 patent to Anderson with the pushmount

of the Kuffel reference. Specifically, the Kuffel reference relies on a flat edge of a retaining leg to engage a first member - differences in thickness of the first member are accounted for via the spring legs (16). Moreover, incorporation of the teeth of the Anderson reference onto the retaining leg of the Kuffel reference would simply concentrate the load of the pushmount at a single tooth since the portion of the retaining leg that engages the first member is not warped or twisted.

Applicant notes that the Patent Law draws a distinction between trade-offs and motivation to combine: trade-offs often concern what is feasible, not what is necessarily desirable, whereas motivation to combine requires the latter. *See, e.g., Winner International Royalty Corp. v. Wang*, 2002 F.3d 1340, 53 USPQ2d 1580 (Fed. Cir.), *cert. denied*, 530 U.S. 1238 (2000). As the modification suggested by the Examiner would not allow for variations in the thickness of the first member, the modification appears to impermissibly concern trade-offs rather than a motivation to combine.

ALLOWABLE SUBJECT MATTER

Claims 9 through 14, 18, 19, 22 and 68 through 94 stand allowed.

The Examiner states that Claims 112 and 113 would be allowable if rewritten in independent form. Applicant has not presented Claims 112 and 113 in an independent form at this time, electing instead to pursue allowance of the underlying independent claim.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests

that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: June 25, 2004

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